BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.08.2022
CORAM:
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM
Crl.O.P.(MD) No.12283 of 2022
and
Crl.M.P(MD) Nos.7770 and 7773 of 2022

1. M/s. Sri Thirupathi Traders,
Represented by its Proprietor
S.kathirvel

2. S.Kathirvel,
: Petitioners

Vs

The Food Safety Officer,
Code No.109/120,
Chellampatti and Vadipatti Taluk,
Designated Officers Office,
Multipurpose Health
Supervisors(F) Training School,
Viswanathapuram.
: Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records and quash the proceedings in S.T.C.No.10/2022, on the file of the learned Judicial Magistrate, Vadipatti in so far as the petitioner and grant such other further relieves as this High Court deems fit and necessary in nature and circumstances of the case.

For Petitioners : Mr. Rajaraman.M,
For Respondent : Mr.E.Antony Sahaya
Prabahar,
Additional Public Prosecutor
ORDER
This criminal original petition has been filed seeking to quash the proceedings in S.T.C.No.10/2022, on the file of the learned Judicial Magistrate, Vadipatti.

2.The learned Counsel appearing for the petitioner submitted that the petitioner is doing the business of ground nut oil and the respondent/Food Safety Officer taken a sample on 25.08.2020 and the food analyst given the report on 19.10.2020. It was packed on 06.03.2022 and it is usable before 05.09.2020. In such circumstances, the food analyst analyzed the ground nut oil from 02.09.2020 to 29.09.2020, which is beyond the period of usable date i.e., 05.09.2020 and they sent the report on 19.10.2020, well after the usable date. Under these circumstances, the petitioners were prevented from referring the report to the referral lab for further analysis. Since it was

usable before 05.09.2020 and thus he was prevented from getting referral lab report, the prosecution against him is unsustainable and pleaded to quash the same.

3.The learned Additional Public Prosecutor submitted that the analyst sent the report on 19.10.2020. After analysis, it is stated that the sample oil contains peroxide value at 46.3 meq/kg. It should be not more than 10 meq/kg. Since the value of the peroxide is exceeding than the prescribed limit of 10 meq/kg, the respondent/Food Safety Officer sent a recommendation letter to the Commissioner of Food Safety on 03.11.2020. After getting sanction, the prosecution has been launched. Further, he pleaded to dismiss this petition.

4.I have considered the matter in the light of the submissions made by the Counsels appearing for the parties.

5.On a perusal of records, it is seen that the petitioner is the accused person in S.T.C.No.10/2022, on the file of the learned Judicial Magistrate, Vadipatti. The petitioner is prosecuted by the respondent/Food Safety Officer for committing the offence punishable under Sections 51, 59(1) and 58 of Food Safety and Standard Act, 2006. According to the petitioner, the seized ground nut oil was manufactured on 06.03.2020 and it is usable before 05.09.2020. To that effect, label is suffixed. This fact is not disputed. Further, the sample, which had been taken by the Food Safety Officer on 25.08.2020, was sent to the lab for analysis, on 26.08.2020, which was received by the food analyst on 01.09.2020 and analysis was done from 02.09.2020 to 20.09.2020. After analysis, they sent the report dated 19.10.2020, which was received by the officer on 27.10.2020. In the said report, it is stated that the sample ground nut oil contains peroxide value at 46.3 meq/kg. It should be not more than 10 meq/kg. Hence the petitioner is prosecuted. According to the petitioner, this was manufactured and packed on 06.03.2020 and it is best usable before 05.09.2020. The label is suffixed in the oil. Under these circumstances, after the best usable period, the sample was subjected for analysis. Further, the report was received only on 27.10.2020. The referral lab opportunity notice was sent to the petitioner on 29.10.2020.

6.The learned Counsel appearing for the petitioner during the course of the argument submitted that the period mentioned in the label -best before- is a mandatory one and he was prevented from selling the food. Under these circumstances, the referral notice was received from the officer only on 29.10.2020. Further, the petitioner was prevented from availing the legal right given to the petitioner.

7.Therefore, the proceedings is vitiated and liable to be quashed. Accordingly, the proceedings in S.T.C.No.10/2022, on the file of the learned Judicial Magistrate, Vadipatti is hereby quashed and this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

29.08.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
lr

To

1.The Food Safety Officer,
Code No.109/120,
Chellampatti and Vadipatti Taluk,
Designated Officers Office,
Multipurpose Health
Supervisors(F) Training School,
Viswanathapuram.

V.SIVAGNANAM, J.
lr

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD) No.12283 of 2022

29.08.2022